

Calendar No. 1033

96TH CONGRESS
2D SESSION**S. 3116**

[Report No. 96-943]

To amend the National Historic Preservation Act of 1966, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16 (legislative day, JUNE 12), 1980

Mr. BUMPEES, from the Committee on Energy and Natural Resources, reported the following original bill; which was read twice and ordered to be placed on the calendar

A BILL

To amend the National Historic Preservation Act of 1966, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “National Historic Preser-
4 vation Act Amendments of 1980”.

1 **TITLE I—FINDINGS AND POLICY OF NATIONAL**
2 **HISTORIC PRESERVATION ACT**

3 SEC. 101. (a) The first section of the Act of October 15,
4 1966 (16 U.S.C. 470–470t), is amended to read as follows:

5 “SEC. 1. (a) This Act may be cited as the ‘National
6 Historic Preservation Act’.

7 “(b) The Congress finds and declares that—

8 “(1) the spirit and direction of the Nation are
9 founded upon and reflected in its historic heritage;

10 “(2) the historical and cultural foundations of the
11 Nation should be preserved as a living part of our com-
12 munity life and development in order to give a sense of
13 orientation to the American people;

14 “(3) historic properties significant to the Nation’s
15 heritage are being lost or substantially altered, often
16 inadvertently, with increasing frequency;

17 “(4) the preservation of this irreplaceable heritage
18 is in the public interest so that its vital legacy of cul-
19 tural, educational, esthetic, inspirational, economic, and
20 energy benefits will be maintained and enriched for
21 future generations of Americans;

22 “(5) in the face of ever-increasing extensions of
23 urban centers, highways, and residential, commercial,
24 and industrial developments, the present governmental
25 and nongovernmental historic preservation programs

1 and activities are inadequate to insure future genera-
2 tions a genuine opportunity to appreciate and enjoy the
3 rich heritage of our Nation;

4 “(6) the increased knowledge of our historic re-
5 sources, the establishment of better means of identify-
6 ing and administering them, and the encouragement of
7 their preservation will improve the planning and execu-
8 tion of Federal and federally assisted projects and will
9 assist economic growth and development; and

10 “(7) although the major burdens of historic preser-
11 vation have been borne and major efforts initiated by
12 private agencies and individuals, and both should con-
13 tinue to play a vital role, it is nevertheless necessary
14 and appropriate for the Federal Government to accel-
15 erate its historic preservation programs and activities,
16 to give maximum encouragement to agencies and indi-
17 viduals undertaking preservation by private means, and
18 to assist State and local governments and the National
19 Trust for Historic Preservation in the United States to
20 expand and accelerate their historic preservation pro-
21 grams and activities.”.

22 (b) Such Act is further amended by inserting immedi-
23 ately after the first section thereof the following new section:

24 “SEC. 2. It shall be the policy of the Federal Govern-
25 ment, in cooperation with other nations and in partnership

1 with the States, local communities, Indian tribes, and private
2 organizations and individuals to—

3 “(a) use measures, including financial and techni-
4 cal assistance, to foster conditions under which our
5 modern society and our prehistoric and historic re-
6 sources can exist in productive harmony and fulfill
7 social, economic, and other requirements of present and
8 future generations;

9 “(b) provide leadership in the preservation of the
10 prehistoric and historic resources of the United States
11 and of the international community of nations;

12 “(c) administer federally owned, administered, or
13 controlled prehistoric and historic resources in a spirit
14 of stewardship for the inspiration and benefit of present
15 and future generations;

16 “(d) contribute to the preservation of nonfederally
17 owned prehistoric and historic resources and give
18 maximum encouragement to organizations and individ-
19 uals undertaking preservation by private means;

20 “(e) encourage the public and private preservation
21 and utilization of all usable elements of the Nation’s
22 built environment; and

23 “(f) assist State and local governments and the
24 National Trust for Historic Preservation in the United

1 States to expand and accelerate their historic preserva-
2 tion programs and activities.”.

3 TITLE II—HISTORIC PRESERVATION PROGRAM

4 SEC. 201. Section 101 of the National Historic Preser-
5 vation Act is amended to read as follows:

6 “SEC. 101. (a)(1)(A) The Secretary of the Interior shall
7 establish a continuing program to identify and evaluate this
8 Nation’s cultural resources and to expand and maintain a Na-
9 tional Register of Historic Places composed of districts, sites,
10 buildings, structures, and objects of national, State, and local
11 significance in American prehistory, history, architecture, ar-
12 cheology, engineering, and culture.

13 “(B) Properties meeting the criteria for national sig-
14 nificance established pursuant to paragraph (2) shall be desig-
15 nated as ‘National Historic Landmarks’ and included in the
16 National Register. All historic properties now included in the
17 National Register shall be deemed to be included in the Na-
18 tional Register as of their initial listing for purposes of this
19 Act. All historic properties listed in the Federal Register of
20 February 6, 1979, as ‘National Historic Landmarks’ or
21 thereafter prior to the effective date of this Act are declared
22 by Congress to be National Historic Landmarks of national
23 historic significance as of their initial listing as such in the
24 Federal Register for purposes of this Act: *Provided*, That in
25 cases of National Historic Landmark districts for which no

1 boundaries have been established, boundaries must first be
2 published in the Federal Register and submitted to the Com-
3 mittee on Energy and Natural Resources of the United
4 States Senate and to the Committee on Interior and Insular
5 Affairs of the United States House of Representatives.

6 “(2) The Secretary shall establish or revise criteria for
7 properties to be included in the National Register and criteria
8 for historic properties which are of national significance, and
9 shall promulgate or revise regulations as may be necessary
10 for—

11 “(A) nominating properties for inclusion in or re-
12 moving them from the National Register by Federal
13 agencies and State Historic Preservation Officers, and
14 the recommendation of properties by certified local
15 governments;

16 “(B) designating properties as National Historic
17 Landmarks;

18 “(C) considering appeals from such recommenda-
19 tions, nominations, or designations, or the failure to
20 nominate or designate, made by an owner of an af-
21 fected property, the applicable local government, or the
22 general public;

23 “(D) nominating properties for inclusion in the
24 World Heritage List in accordance with the terms of

1 the Convention Concerning the Protection of the
2 World Cultural and Natural Heritage;

3 “(E) making determinations of eligibility of prop-
4 erties for inclusion in the National Register; and

5 “(F) notifying the owner of a property, any appro-
6 priate local governments, and the general public when
7 a property is being considered for inclusion in the
8 National Register or for designation as a National His-
9 toric Landmark.

10 “(3) Any State which is carrying out a program ap-
11 proved under subsection (b), and any Federal agency pur-
12 suant to section 110, shall nominate to the Secretary a prop-
13 erty for inclusion in the National Register when it meets the
14 criteria promulgated under subsection (a). Any property
15 nominated under this paragraph shall be included in the Na-
16 tional Register on the date forty-five days after receipt by the
17 Secretary of the nomination and the necessary documenta-
18 tion, unless the Secretary disapproves such nomination
19 within that forty-five-day period.

20 “(4) Any person or local government may propose that
21 a State consider a property for nomination for inclusion in the
22 National Register.

23 “(5) The Secretary shall promulgate or revise regula-
24 tions for—

1 “(A) ensuring that significant prehistoric and his-
2 toric artifacts, and associated records subject to section
3 110 or the Act of June 27, 1960 (16 U.S.C. 469c),
4 are deposited in an institution with adequate long-term
5 curatorial capabilities;

6 “(B) establishing a uniform process and standards
7 for documenting historic properties by public agencies
8 and private parties for purposes of their incorporation
9 into, or complementing, the national historical architec-
10 tural and engineering records within the Library of
11 Congress; and

12 “(C) certifying local governments, in accordance
13 with this Act, and for the allocation of funds pursuant
14 to section 103(c) of this Act.

15 “(b)(1) The Secretary shall develop or revise regulations
16 for State Historic Preservation Programs. These programs
17 may include appropriate governmental mechanisms for the
18 professional preservation of historic properties and assistance
19 to local governments and private organizations and individ-
20 uals undertaking preservation activities, such as grants,
21 loans, loan guarantees, education, training, and any other
22 mechanisms as the Secretary determines will carry out the
23 purposes of this Act. The regulations shall provide that a
24 State program submitted to the Secretary under this section

1 shall be approved by the Secretary if he determines that the
2 program—

3 “(A) provides for the designation by the Governor
4 of a ‘State Historic Preservation Officer’ to administer
5 the program in accordance with paragraph (4) and for
6 the employment or appointment by the officer of any
7 professionally qualified staff as may be necessary for
8 such purposes;

9 “(B) provides for an adequate and qualified State
10 Review Board designated by the State Historic Preser-
11 vation Officer unless otherwise provided for by State
12 law; and

13 “(C) provides for adequate public participation in
14 the State Historic Preservation Program, including the
15 process of recommending properties for nomination to
16 the National Register.

17 “(2) Not less than every four years after the approval of
18 any State program under this subsection, the Secretary shall
19 evaluate the program to make a determination as to whether
20 or not it is in compliance with the requirements of this Act. If
21 at any time, the Secretary determines that a State program
22 does not comply with such requirements, he shall disapprove
23 the program, and suspend in whole or in part assistance to
24 that State under subsection (d)(1), unless there are adequate
25 assurances that the program will comply with such require-

1 ments within a reasonable period of time. The Secretary may
2 also conduct periodic fiscal audits of State programs ap-
3 proved under this part.

4 “(3) It shall be the responsibility of the State Historic
5 Preservation Officer to administer the State historic preser-
6 vation program and to—

7 “(A) direct and conduct a comprehensive
8 statewide survey of historic properties and maintain in-
9 ventories of these properties in cooperation with local
10 governments and private organizations and individuals;

11 “(B) identify and nominate eligible properties to
12 the National Register and otherwise administer appli-
13 cations for listing historic properties in or removing
14 them from the National Register;

15 “(C) prepare and implement a comprehensive
16 statewide historic preservation plan;

17 “(D) administer the State program of Federal as-
18 sistance for historic preservation within the State;

19 “(E) advise and assist, as appropriate, Federal
20 agencies and local governments in carrying out their
21 historic preservation responsibilities;

22 “(F) cooperate with the Secretary, the Advisory
23 Council on Historic Preservation, and other Federal,
24 State, and local agencies, and organizations and indi-

1 viduals to ensure that historic properties are taken into
2 consideration at all levels of planning and development;

3 “(G) provide public information, education, and
4 training and technical assistance relating to the Fed-
5 eral and State Historic Preservation Programs; and

6 “(H) cooperate with local governments in the de-
7 velopment of local historic preservation programs and
8 assist local governments in becoming certified pursuant
9 to subsection (c).

10 “(4) Any State may carry out all or any part of its re-
11 sponsibilities under this subsection by contract or cooperative
12 agreement with any qualified nonprofit organization or edu-
13 cational institution.

14 “(5) Any State historic preservation program in effect
15 under prior authority of law, may be treated as an approved
16 program for purposes of this subsection until the earlier of—

17 “(A) the date on which the Secretary approves a
18 program submitted by the State under this subsection;
19 or

20 “(B) three years after the date of enactment of
21 the National Historic Preservation Act Amendments of
22 1980.

23 “(c)(1) Any State program approved under this section
24 shall provide a mechanism for the certification by the State
25 Historic Preservation Officer of local governments to carry

1 out the purposes of this Act and provide for the transfer, in
2 accordance with section 103(c), of a portion of the grants
3 received by the States under this Act, to such local govern-
4 ments. Any local government shall be certified to participate
5 under the provisions of this section if the applicable State
6 Historic Preservation Officer and the Secretary certifies that
7 the local government—

8 “(A) enforces appropriate State or local legislation
9 for the designation and protection of historic properties;

10 “(B) has established an adequate and qualified
11 historic preservation commission by State or local
12 legislation;

13 “(C) maintains a system for the survey and inven-
14 tory of historic properties that furthers the purposes of
15 subsection (b);

16 “(D) provides for adequate public participation in
17 the local historic preservation program, including the
18 process of recommending properties for nomination to
19 the National Register; and

20 “(E) satisfactorily performs the responsibilities
21 delegated to it under this Act.

22 Where there is no approved State program, a local govern-
23 ment may be certified by the Secretary if he determines that
24 the local government meets the requirements of subpara-
25 graphs (A) through (E); and in any such case the Secretary

1 may make grants-in-aid to the local government for purposes
2 of this section.

3 “(2)(A) Before a property within the jurisdiction of the
4 certified local government may be nominated to the Secre-
5 tary for inclusion in the National Register, the State Historic
6 Preservation Officer shall notify the owner, the applicable
7 chief local elected official, and the local historic preservation
8 commission. The commission, after reasonable opportunity
9 for public comment, shall prepare a report as to whether or
10 not such property in its opinion meets the criteria of the Na-
11 tional Register. Within sixty days of notice from the State
12 Historic Preservation Officer, the chief local elected official
13 shall transmit the report of the commission and his recom-
14 mendation to the State Historic Preservation Officer. After
15 receipt of the report and recommendation, or if no such
16 report and recommendation are received within sixty days,
17 the State shall make the nomination pursuant to section
18 101(a), except as provided in subparagraph (B) of this sec-
19 tion. The State may expedite such process with the concur-
20 rence of the certified local government.

21 “(B) If both the commission and the chief local elected
22 official recommend that a property not be nominated to the
23 National Register, the State Historic Preservation Officer
24 shall take no further action, unless within thirty days of the
25 receipt of such recommendation by the State Historic Preser-

1 vation Officer an appeal is filed with the State. If an appeal is
2 filed, the State shall make the nomination pursuant to section
3 101(a). Any report and recommendations made under this
4 section shall be included with any nomination submitted by
5 the State to the Secretary.

6 “(3) Any local government certified under this section,
7 or which is making efforts to become so certified, shall be
8 eligible for purposes of qualifying for funds under the provi-
9 sions of section 103(c) of this Act, and shall carry out any
10 responsibilities delegated to it in accordance with such terms
11 and conditions as the Secretary deems necessary or
12 advisable.

13 “(d)(1) The Secretary shall administer a program of
14 matching grants-in-aid to the States for projects and State
15 historic preservation programs approved by the Secretary
16 and having as their purpose the identification and preserva-
17 tion for public benefit of historic properties.

18 “(2) The Secretary shall administer a program of
19 matching grant-in-aid to the National Trust for Historic
20 Preservation in the United States, chartered by Act of
21 Congress approved October 26, 1949 (63 Stat. 927), as
22 amended, for the purposes of carrying out the responsibilities
23 of the National Trust.

24 “(3)(A) In addition to the programs under paragraphs
25 (1) and (2), the Secretary may administer a program of direct

1 grants for the preservation of historic properties. These
2 grants may be made by the Secretary, in consultation with
3 any appropriate State Historic Preservation Officer—

4 “(i) for the preservation of National Historic
5 Landmarks which are threatened with demolition or
6 impairment and for the preservation of historic proper-
7 ties of World Heritage significance,

8 “(ii) for demonstration projects which will provide
9 information concerning professional methods and tech-
10 niques having application to historic properties,

11 “(iii) for the training and development of skilled
12 labor in trades and crafts relating to historic preserva-
13 tion; and

14 “(iv) to assist persons or small businesses within
15 any historic district to remain within the district.

16 “(B) The Secretary may also, in consultation with the
17 appropriate State Historic Preservation Officer, make grants
18 or loans or both under this section to Indian tribes and to
19 nonprofit organizations representing ethnic or minority
20 groups for the preservation of their cultural heritage and to
21 States having programs for cultural parks or conservation
22 districts for demonstration projects relating to the protection
23 of cultural resources.

24 “(e) In consultation with the Advisory Council on His-
25 toric Preservation, the Secretary shall promulgate guidelines

1 for Federal agency responsibilities under section 110 of this
2 title.

3 “(f) Within one year of the date of enactment of the
4 National Historic Preservation Act Amendments of 1980,
5 the Secretary shall establish, in consultation with the Smith-
6 sonian Institution and the Administrator of the General Serv-
7 ices Administration, professional standards for the preserva-
8 tion of federally owned historic properties.

9 “(g) The Secretary shall develop and make available to
10 Federal agencies, State and local governments, private orga-
11 nizations and individuals, and other nations and international
12 organizations pursuant to the World Heritage Convention,
13 training in and information concerning, professional methods
14 and techniques for the preservation of historic properties and
15 for the administration of the historic preservation program at
16 the Federal, State, and local level. The Secretary shall also
17 develop mechanisms to provide information concerning his-
18 toric preservation to the general public including students.”.

19 SEC. 202. (a) Section 102(a)(3) of the National Historic
20 Preservation Act is amended to read as follows:

21 “(3) for more than 50 per centum of the total
22 costs of carrying out projects and programs specified in
23 section 101(d) (1) and (2), except that for the costs of
24 State or local preservation plans, surveys, or inven-
25 tories, the Secretary shall provide 70 per centum of

1 the costs involved. The per centum limitations shall be
2 applied on an aggregate basis with respect to all ex-
3 penditures for projects and programs during any fiscal
4 year. Except as permitted by other law, the remaining
5 per centum shall be contributed by non-Federal
6 sources. Notwithstanding any other provision of law,
7 no grant made pursuant to this Act shall be treated as
8 taxable income for purposes of the Internal Revenue
9 Code of 1954 or for purposes of any State or local law
10 imposing a tax on income.”.

11 (b) Subsection (c) of section 102 of such Act is repealed.

12 SEC. 203. (a) Subsection (b) of section 103 of the Na-
13 tional Historic Preservation Act is amended by inserting
14 after “projects” the words “and programs”, and by striking
15 out the second sentence thereof and substituting the follow-
16 ing: “The Secretary shall notify each State of its apportion-
17 ment under this subsection within thirty days following the
18 date of enactment of legislation appropriating funds under
19 this Act.”.

20 (b) Section 103 of such Act is amended by adding at the
21 end thereof the following:

22 “(c) A minimum of ten per centum of the annual appor-
23 tionment distributed by the Secretary to each State for the
24 purposes of carrying out this Act shall be used, pursuant to
25 the requirements of this Act, for historic preservation proj-

1 ects or programs of local governments which are either certi-
2 fied under section 101(c) or are making efforts to become so
3 certified. In any year in which the annual apportionment to
4 the States exceeds \$65,000,000, one-half of the excess shall
5 also be distributed to local governments certified or making
6 efforts to become certified pursuant to section 101(c).

7 “(d) The Secretary shall establish guidelines for the use
8 and distribution of funds under subsection (c) to insure that
9 no local government receives a disproportionate share of the
10 funds available and may include a limitation on the amount of
11 funds distributed to any single local government. The guide-
12 lines shall not limit the ability of any State to distribute more
13 than ten per centum of its annual apportionment under sub-
14 section (c), nor shall the Secretary require any State to
15 exceed the ten per centum minimum distribution to local
16 governments.”.

17 SEC. 204. Section 104(a) of the National Historic Pres-
18 ervation Act is amended to read as follows:

19 “SEC. 104. (a) The Secretary shall establish and main-
20 tain a program by which he may upon application of a private
21 lender, insure loans (including loans made in accordance with
22 a mortgage) made by such lender to finance any project for
23 the preservation of a historic property.

24 “(b) A loan may be insured under this section only if—

1 “(1) the loan is made by a private lender ap-
2 proved by the Secretary as financially sound and able
3 to service the loan properly;

4 “(2) the interest rate charged with respect to the
5 loan does not exceed a rate established by the Secre-
6 tary, by rule;

7 “(3) the Secretary has consulted the appropriate
8 State Historic Preservation Officer concerning the
9 preservation of the historic property;

10 “(4) the Secretary has determined that the loan is
11 adequately secured and there is reasonable assurance
12 of repayment;

13 “(5) the repayment period of the loan does not
14 exceed the lesser of forty years or the expected life of
15 the asset financed;

16 “(6) the amount insured with respect to such loan
17 does not exceed ninety per centum of the loss sus-
18 tained by the lender with respect to the loan; and

19 “(7) the loan, the borrower, and the preservation
20 of the historic property meet other terms and condi-
21 tions as may be prescribed by the Secretary, by rule,
22 especially terms and conditions relating to the nature
23 and quality of the preservation work.

24 “(c) The aggregate unpaid principal balance of loans in-
25 sured under this section and outstanding at any one time may

1 not exceed twice the amount which has been covered into the
2 Historic Preservation Fund pursuant to section 108 and sub-
3 sections (g) and (i) of this section but which has not been
4 appropriated for any purpose.

5 “(d) Any contract of insurance executed by the Secre-
6 tary under this section may be assignable and shall be an
7 obligation supported by the full faith and credit of the United
8 States and incontestable except for fraud or misrepresenta-
9 tion of which the holder had actual knowledge at the time it
10 became a holder.

11 “(e) The Secretary shall specify, by rule and in each
12 contract entered into under this section, the conditions and
13 method of payment to a private lender as a result of losses
14 incurred by the lender on any loan insured under this section.

15 “(f) In entering into any contract to insure a loan under
16 this section, the Secretary shall take steps to assure adequate
17 protection of the financial interests of the Federal Govern-
18 ment. The Secretary may—

19 “(1) in connection with any foreclosure proceed-
20 ing, obtain, on behalf of the Federal Government, the
21 property securing a loan insured under this title; and

22 “(2) operate or lease such property for such
23 period as may be necessary to protect the interest of
24 the Federal Government and to carry out subsection
25 (g).

1 “(g)(1) In any case in which a historic property is ob-
2 tained pursuant to subsection (f), the Secretary shall attempt
3 to convey such property to any governmental or nongovern-
4 mental entity under such conditions as will ensure the prop-
5 erty’s continued preservation and use; except that if, after a
6 reasonable time, the Secretary, in consultation with the Ad-
7 visory Council on Historic Preservation, determines that
8 there is no feasible and prudent means to convey such prop-
9 erty and to ensure its continued preservation and use for the
10 public benefit, then the Secretary may convey the property at
11 the fair market value of its interest in such property to any
12 entity without restriction.

13 “(2) Any funds obtained by the Secretary in connection
14 with the conveyance of any property pursuant to paragraph
15 (1) shall be covered into the Historic Preservation Fund, in
16 addition to the amounts covered into such Fund pursuant to
17 section 108 and subsection (i) of this section, and shall
18 remain available in such Fund until appropriated by the Con-
19 gress to carry out the purposes of this Act.

20 “(h) The Secretary may assess appropriate and reason-
21 able fees in connection with insuring loans under this section.
22 Any such fees shall be covered into the Historic Preservation
23 Fund, in addition to the amounts covered into such Fund
24 pursuant to section 108 and subsection (g) of this section, and

1 shall remain available in such Fund until appropriated by the
2 Congress to carry out purposes of this Act.

3 “(i) Notwithstanding any other provision of law, any
4 loan insured under this section shall be treated as non-Feder-
5 al funds for the purposes of satisfying any requirement of any
6 other provision of law under which Federal funds to be used
7 for any project or activity are conditioned upon the use of
8 non-Federal funds by the recipient for payment of any portion
9 of the costs of such project or activity.

10 “(j) There are authorized to be appropriated after Octo-
11 ber 1, 1981, such sums as may be necessary to carry out the
12 activities under this section.”.

13 SEC. 205. Section 108 of such Act is amended by in-
14 serting after the term “1981” the phrase “and \$150,000,000
15 for each of fiscal years 1982 through 1987”.

16 SEC. 206. Title I of the National Historic Preservation
17 Act is amended by adding the following new section at the
18 end thereof:

19 “SEC. 110. (a)(1) The heads of all Federal agencies
20 shall assume responsibility for the preservation of historic
21 properties which are owned or used by the agency. Each
22 Federal agency having responsibility for the management of
23 any real property shall, in carrying out the agency’s responsi-
24 bilities under other provisions of Federal law, give a priority
25 to the use, including compatible adaptive use, of historic

1 properties that are owned or used by the agency. Each
2 agency shall undertake, consistent with the preservation of
3 such properties, the mission of the agency, and the profes-
4 sional standards established pursuant to section 101(f), any
5 preservation as may be necessary to carry out this section.

6 “(2) With the advice of the Secretary and in cooperation
7 with the State Historic Preservation Officer for the State in-
8 volved, each Federal agency shall locate, inventory, and
9 nominate to the Secretary all properties owned or used by
10 the agency that appear to qualify for inclusion in the National
11 Register in accordance with the regulations promulgated
12 under section 101(a)(2)(A). Each Federal agency shall exer-
13 cise caution to assure that any such property that might qual-
14 ify for inclusion is not inadvertently transferred, sold, demol-
15 ished, substantially altered, or allowed to deteriorate
16 significantly.

17 “(b) Each Federal agency shall initiate measures to
18 assure that where, as a result of Federal action or assistance
19 carried out by the agency, a historic property is to be sub-
20 stantially altered or demolished, timely steps are taken to
21 make or have made appropriate records, and that these rec-
22 ords then be deposited, in accordance with section 101(a), in
23 the Library of Congress or with any other appropriate
24 agency as may be designated by the Secretary, for future use
25 and reference.

1 “(c) The head of each Federal agency shall designate a
2 qualified official to be the agency’s ‘Preservation Officer’,
3 who shall be responsible for coordinating that agency’s activ-
4 ities under this Act. Each Federal agency shall also develop
5 a system to provide for the designation of qualified officials at
6 the field or regional level, as appropriate, to assist the Pres-
7 ervation Officer in carrying out his functions. Each Preserva-
8 tion Officer and official designated at the field or regional
9 level may, in order to be considered qualified, satisfactorily
10 complete the training program established by the Secretary
11 pursuant to section 101(g).

12 “(d) All Federal agencies shall carry out agency pro-
13 grams and projects (including those under which any Federal
14 assistance is provided or any Federal license, permit, or other
15 approval is required) in accordance with the purposes of this
16 Act and, consistent with the agency’s missions and mandates,
17 give a priority to programs and projects which will further
18 the purposes of this Act.

19 “(e) Prior to the approval of any Federal undertaking
20 which may adversely affect any National Historic Landmark,
21 the head of any Federal agency shall determine that no pru-
22 dent and feasible alternative to such undertaking exists, shall,
23 to the maximum extent possible, undertake such planning
24 and actions as may be necessary to minimize harm to such
25 Landmark, and shall afford the Advisory Council on Historic

1 Preservation a reasonable opportunity to comment on the
2 undertaking.

3 “(f) The Secretary shall review and approve the plans of
4 transferees of surplus federally owned historic properties to
5 ensure that the prehistorical, historical, architectural, or cul-
6 turally significant values will be preserved or enhanced.

7 “(g) Each Federal agency shall include the costs of its
8 preservation activities as eligible project costs in all under-
9 takings of the agency or assisted by the agency. The eligible
10 project costs shall also include amounts paid by a Federal
11 agency to any State to be used in carrying out the preserva-
12 tion responsibilities of the Federal agency under this Act, and
13 may be charged to Federal licensees and permittees as a con-
14 dition to the issuance of such license or permit.”.

15 SEC. 207. Title I of the National Historic Preservation
16 Act is further amended by adding the following at the end
17 thereof:

18 “SEC. 111. (a) Notwithstanding any other provision of
19 law, each Federal agency having responsibility for the man-
20 agement of any historic property may, after consultation with
21 the Advisory Council on Historic Preservation, lease such
22 property to any person or organization, or exchange the
23 property with equivalent property, if the agency head deter-
24 mines that the lease or exchange will adequately insure the
25 preservation of such property.

1 “(b) The proceeds of any lease under subsection (a) may,
2 notwithstanding any other provision of law, be retained by
3 the agency entering into the lease and used to defray the
4 costs of administration, maintenance, repair, and related ex-
5 penses incurred by the agency with respect to such property
6 or other properties which are in the National Register which
7 are owned by, or are under the jurisdiction or control of, such
8 agency. Any surplus proceeds from such leases shall be de-
9 posited into the Treasury of the United States at the end of
10 the second fiscal year following the fiscal year in which the
11 proceeds were received.

12 “(c) The head of any Federal agency having responsibil-
13 ity for the management of any historic property may, after
14 consultation with the Advisory Council on Historic Preserva-
15 tion, enter into contracts for the management of such prop-
16 erty. Any contract shall contain such terms and conditions as
17 the head of the agency deems necessary or appropriate to
18 protect the interests of the United States and insure adequate
19 preservation of the historic property.”.

20 SEC. 208. Notwithstanding section 7 of the Act of
21 June 27, 1960 (16 U.S.C. 469c), or any other provisions of
22 law to the contrary—

23 (1) identification, surveys, and evaluation carried
24 out with respect to historic properties within project
25 areas may be treated for purposes of any law or rule of

1 law as planning costs of the project and not as costs of
2 mitigation;

3 (2) the costs of identification, surveys, evaluation,
4 and data recovery carried out with respect to historic
5 properties within project areas may be charged to Fed-
6 eral licensees and permittees as a condition to the issu-
7 ance of such license or permit; and

8 (3) Federal agencies, with the concurrence of the
9 Secretary and after notification to the Committee on
10 Interior and Insular Affairs of the House of Repre-
11 sentatives and the Committee on Energy and Natural
12 Resources of the United States Senate, are authorized
13 to waive, in appropriate cases, the 1 percent limitation
14 contained in section 7(a) of such Act.

15 TITLE III—AMENDMENTS TO TITLE II OF THE
16 NATIONAL HISTORIC PRESERVATION ACT

17 SEC. 301. (a) Section 201(a) of the National Historic
18 Preservation Act is amended by striking out “twenty-nine”
19 and all that follows and substituting: “the following
20 members:

21 “(1) a Chairman appointed by the President
22 selected from the general public;

23 “(2) the Secretary of the Interior;

24 “(3) the Architect of the Capitol;

1 “(4) the heads of four agencies of the United
2 States (other than the Department of the Interior) the
3 activities of which affect historic preservation,
4 appointed by the President;

5 “(5) one Governor appointed by the President;

6 “(6) one mayor appointed by the President;

7 “(7) the President of the National Conference of
8 State Historic Preservation Officers;

9 “(8) the Chairman of the National Trust for His-
10 toric Preservation;

11 “(9) four experts in the field of historic preserva-
12 tion appointed by the President from the disciplines of
13 architecture, history, archeology, and other appropriate
14 disciplines; and

15 “(10) three at-large members from the general
16 public, appointed by the President.”.

17 (b) Section 201(b) of such Act is amended by deleting
18 “(1) and (17)” and substituting in lieu thereof “(2) through
19 (8) (other than (5) and (6))” and by inserting the following
20 before the period “, except that, in the case of paragraphs (2)
21 and (4), no such officer who is below the rank of Assistant
22 Secretary may be so designated”.

23 (c) Section 201(c) of such Act is amended to read as
24 follows:

1 “(c) Each member of the Council appointed under para-
2 graph (1), and under paragraphs (9) and (10) of subsection (a)
3 shall serve for a term of four years from the expiration of his
4 predecessor’s term; except that the members first appointed
5 under that paragraph shall serve for terms of one to four
6 years, as designated by the President at the time of appoint-
7 ment, in such manner as to insure that the terms of not more
8 than two of them will expire in any one year. The members
9 appointed under paragraphs (5) and (6) shall serve for the
10 term of their elected office but not in excess of four years. An
11 appointed member may not serve more than two terms. An
12 appointed member whose term has expired shall serve until
13 that member’s successor has been appointed.”.

14 (d) Section 201(d) of such Act is amended to read as
15 follows:

16 “(d) A vacancy in the Council shall not affect its
17 powers, but shall be filled not later than sixty days after such
18 vacancy commences in the same manner as the original ap-
19 pointment (and for the balance of any unexpired terms). The
20 members of the Advisory Council on Historic Preservation
21 appointed by the President under this Act as in effect on the
22 day before the date of enactment of the National Historic
23 Preservation Act Amendments of 1980 shall remain in office
24 until all members of the Council, as specified in this section,
25 have been appointed. The members first appointed under this

1 section shall be appointed not later than one hundred and
2 eighty days after the date of enactment of such Act.”.

3 (e) Section 201(e) of such Act is amended to read as
4 follows:

5 “(e) The President shall designate a Vice Chairman,
6 from the members appointed under paragraph (5), (6), (9), or
7 (10). The Vice Chairman may act in place of the Chairman
8 during the absence or disability of the Chairman or when the
9 office is vacant.”.

10 (f) Section 201(f) of such Act is amended by deleting the
11 word “fifteen” and substituting in lieu thereof the word
12 “nine”.

13 (g)(1) Section 202(a) of such Act is amended by striking
14 out “and” after the semicolon in paragraph (4), by changing
15 the period to a semicolon and adding the word “and” at the
16 end of paragraph (5), and adding the following new
17 paragraph:

18 “(6) inform and educate Federal agencies, State
19 and local governments, Indian tribes, other nations and
20 international organizations and private groups and indi-
21 viduals as to the Council’s authorized activities.”.

22 (2) Section 202(b) of such Act is amended by inserting
23 the following before the period at the end thereof: “and shall
24 provide the Council’s assessment of current and emerging
25 problems in the field of historic preservation and an evalua-

1 tion of the effectiveness of the programs of Federal agencies,
2 State and local governments, and the private sector in carry-
3 ing out the purposes of this Act”.

4 (h) Section 204 of such Act is amended to read as
5 follows:

6 “SEC. 204. The members of the Council specified in
7 paragraphs (2), (3), and (4) of section 201(a) shall serve with-
8 out additional compensation. The other members of the
9 Council shall receive \$100 per diem when engaged in the
10 performance of the duties of the Council. While away from
11 their homes or regular places of business in the performance
12 of services for the Council all members of the Council shall
13 be allowed travel expenses, including per diem in lieu of sub-
14 sistence, in the same manner as persons employed intermit-
15 tently in Government service are allowed expenses under
16 section 5703 of title 5 of the United States Code.”.

17 (i) The third sentence of section 205(b) of such Act is
18 amended by inserting after the words “whenever appropri-
19 ate” the phrase “including enforcement of agreements with
20 Federal agencies”.

21 (j) Section 205(g) of such Act is amended by (1) insert-
22 ing after the word “facilities,” in the second sentence the
23 word “moneys,”; (2) adding the following phrase immediately
24 before the period at the end of the last sentence: “and the
25 Executive Director is authorized, in his discretion, to accept,

1 hold, use, expend, and administer the same for the purposes
2 of this Act"; and (3) striking out "(1) through (16)" and sub-
3 stituting "(2) through (4)".

4 (k) Section 210 of such Act is amended by striking out
5 the first sentence thereof.

6 (l) Section 211 of such Act is amended by adding the
7 following at the end thereof: "The Council shall, by regula-
8 tion, establish such procedures as may be necessary to pro-
9 vide for participation by local governments in proceedings
10 and other actions taken by the Council with respect to under-
11 takings referred to in section 106 which affect such local
12 governments."

13 (m) Section 212 of such Act is amended to read as
14 follows:

15 "SEC. 212. The Council shall submit its budget
16 annually as a related agency of the Department of the Interi-
17 or. There are authorized to be appropriated after October 1,
18 1981, such sums as may be necessary to carry out such ac-
19 tivities of the Council as may be authorized by the
20 Congress."

21 SEC. 302. Title II of the National Historic Preservation
22 Act is amended by adding the following new sections at the
23 end thereof:

24 "SEC. 213. To assist the Council in discharging its re-
25 sponsibilities under this Act, the Secretary, at the request of

1 the Chairman, shall provide a report to the Council detailing
2 the significance of any historic property describing the effects
3 of any proposed undertaking on the affected property, and
4 recommending measures to avoid, minimize, or mitigate ad-
5 verse effects.

6 “SEC. 214. The Council, with the concurrence of the
7 Secretary, shall promulgate regulations or guidelines, as ap-
8 propriate, under which Federal programs or undertakings
9 may be exempted from any or all of the requirements of this
10 Act when such exemption is determined to be consistent with
11 the purposes of this Act, taking into consideration the magni-
12 tude of the exempted undertaking or program and the likeli-
13 hood of impairment of historic properties.”.

14 **TITLE IV—INTERNATIONAL ACTIVITIES AND**
15 **WORLD HERITAGE CONVENTION**

16 SEC. 401. (a) The Secretary shall direct and coordinate
17 United States participation in the Convention Concerning the
18 Protection of the World Cultural and Natural Heritage, ap-
19 proved by the Senate on October 26, 1973, in cooperation
20 with the Secretary of State, the Smithsonian Institution, and
21 the Advisory Council on Historic Preservation. Whenever
22 possible, expenditures incurred in carrying out activities in
23 cooperation with other nations and international organiza-
24 tions shall be paid for in any excess currency of the country

1 or area where the expense is incurred as may be available to
2 the United States.

3 (b) The Secretary shall periodically nominate properties
4 he determines are of international significance to the World
5 Heritage Committee on behalf of the United States. No prop-
6 erty may be so nominated unless it has previously been de-
7 termined to be of national significance. Each nomination shall
8 include evidence of such legal protections as may be neces-
9 sary to ensure preservation of the property and its environ-
10 ment, including restrictive covenants, easements, or other
11 forms of protection.

12 SEC. 402. Prior to the approval of any Federal under-
13 taking outside the United States which may directly and ad-
14 versely affect a property which is on the World Heritage List
15 or on the applicable country's equivalent of the National
16 Register, the head of a Federal agency having direct or indi-
17 rect jurisdiction over such undertaking shall take into account
18 the effect of the undertaking on such property for purposes of
19 avoiding or mitigating any adverse effects.

20 TITLE V—GENERAL, ADMINISTRATIVE, AND
21 MISCELLANEOUS PROVISIONS

22 SEC. 501. The National Historic Preservation Act is
23 amended by adding the following new title at the end thereof:

24 "TITLE III

25 "SEC. 301. As used in this Act, the term—

1 “(1) ‘Agency’ means ‘agency’ as such term is de-
2 fined in section 551 of title 5, United States Code.

3 “(2) ‘State’ means any State of the United States,
4 the District of Columbia, the Commonwealth of Puerto
5 Rico, Guam, the Virgin Islands, American Samoa, and
6 the Trust Territories of the Pacific Islands.

7 “(3) ‘Local government’ means a city, county,
8 parish, township, municipality, borough, or any other
9 general purpose subdivision of a State.

10 “(4) ‘Indian tribe’ means the governing body of
11 any Indian tribe, band, nation, or other group which is
12 recognized as an Indian tribe by the Secretary of the
13 Interior and for which the United States holds land in
14 trust or restricted status for that entity or its members,
15 and also native villages and regional corporations es-
16 tablished pursuant to the Alaska Native Claims Settle-
17 ment Act, as amended (43 U.S.C. 1701 et seq.).

18 “(5) ‘Historic property’ or ‘historic resource’
19 means any prehistoric or historic district, site, building,
20 structure, or object included in, or eligible for inclusion
21 in the National Register; such term includes artifacts,
22 records, and remains which are related to such a dis-
23 trict, site, building, structure, or object.

1 “(6) ‘National Register’ or ‘Register’ means the
2 National Register of Historic Places established under
3 section 101.

4 “(7) ‘Undertaking’ means any action as described
5 in section 106.

6 “(8) ‘Preservation’ or ‘historic preservation’ in-
7 cludes identification, evaluation, recordation, documen-
8 tation, curation, acquisition, protection, management,
9 rehabilitation, restoration, stabilization, maintenance
10 and reconstruction of historic properties, or any combi-
11 nation of the foregoing activities.

12 “(9) ‘Secretary’ means the Secretary of the Inte-
13 rior unless otherwise specified.

14 “SEC. 302. Each Federal agency is authorized to
15 expend funds appropriated for its authorized programs for the
16 purposes of this Act.

17 “SEC. 303. (a) The Secretary is authorized to accept
18 donations and bequests of money and personal property for
19 the purposes of this Act and shall hold, use, and expend and
20 administer the same for such purposes.

21 “(b) The Secretary is authorized to accept gifts or dona-
22 tions of less than fee interests in any historic property where
23 the acceptance of such interests will facilitate the conserva-
24 tion or preservation of such properties. Nothing in this sec-
25 tion or in any provision of this Act shall be construed to

1 affect or impair any other authority of the Secretary under
2 other provision of law to accept or acquire any property for
3 conservation or preservation or for any other purpose.

4 “SEC. 304. The head of any Federal agency, after con-
5 sultation with the Secretary, shall withhold from disclosure
6 to the public information relating to the location of historic
7 resources whenever the head of the agency or the Secretary
8 of the Interior determines that the disclosure of such informa-
9 tion would create a substantial risk of harm, theft, or destruc-
10 tion to such resources or to the area or place where such
11 resources are located.

12 “SEC. 305. In any civil action brought in a United
13 States district court by any interested person to enforce the
14 provisions of this Act and who prevails, the court may award
15 attorneys’ fees, expert witness fees, and other costs of par-
16 ticipating in such action, as the court deems reasonable.”.

17 SEC. 502. The Secretary of the Interior, in cooperation
18 with the American Folklife Center of the Library of Congress
19 shall, within two years after the date of the enactment of this
20 Act, submit a report to the President and the Congress on
21 preserving and conserving the intangible elements of our cul-
22 tural heritage such as arts, skills, folklife, and folkways. The
23 report shall take into account the view of other public and
24 private organizations, as appropriate. This report shall
25 include recommendations for legislative and administrative

1 actions by the Federal Government in order to preserve, con-
2 serve, and encourage the continuation of the diverse tradi-
3 tional prehistoric, historic, ethnic, and folk cultural traditions
4 that underlie and are a living expression of our American
5 heritage.

6 SEC. 503. The Advisory Council on Historic Preserva-
7 tion, in cooperation with the Secretary of the Interior and the
8 Secretary of the Treasury, shall submit a report to the Presi-
9 dent and the Congress on Federal tax laws relating to
10 historic preservation or affecting in any manner historic pres-
11 ervation. Such report shall include recommendations respect-
12 ing amendments to such laws which would further the pur-
13 poses of this Act. Such report shall be submitted within one
14 year after the date of enactment of this Act.

15 SEC. 504. The Secretary of the Interior shall submit a
16 report directly to the President and the Congress on or before
17 June 1, 1986, reviewing the operation of the Historic Preser-
18 vation Fund and the national historic preservation program
19 since the enactment of this Act and recommending appropri-
20 ate funding levels, the time period for the reauthorization for
21 appropriations from the fund, and other appropriate legisla-
22 tive action to be undertaken upon the expiration of the cur-
23 rent fund authorization.

24 SEC. 505. (a) In accordance with the declaration of the
25 Congress in Public Law 95-596 (92 Stat. 2545), and in order

1 to provide a national center to commemorate and encourage
2 the building arts, the Secretary and the Administrator of the
3 General Services Administration are authorized and directed
4 to enter into a cooperative agreement with the Committee for
5 a National Museum of the Building Arts, Incorporated, a
6 nonprofit corporation organized and existing under the laws
7 of the District of Columbia, or its successor, for the operation
8 of a National Museum for the Building Arts in the Federal
9 Building located in the block bounded by Fourth Street, Fifth
10 Street, F Street, and G Street, Northwest in Washington,
11 D.C. to—

12 (1) collect and disseminate information concerning
13 the building arts, including the establishment of a
14 national reference center for current and historic docu-
15 ments, publications, and research relating to the build-
16 ing arts;

17 (2) foster educational programs relating to the his-
18 tory, practice, and contribution to society of the build-
19 ing arts, including promotion of imaginative educational
20 approaches to enhance understanding and appreciation
21 of all facets of the building arts;

22 (3) publicly display temporary and permanent ex-
23 hibits illustrating, interpreting, and demonstrating the
24 building arts;

1 (4) sponsor or conduct research and study into the
2 history of the building arts and their role in shaping
3 our civilization; and

4 (5) encourage contributions to the building arts.

5 (b) For purposes of this section, the term “building arts”
6 includes, but shall not be limited to, all practical and schol-
7 arly aspects of prehistoric, historic, and contemporary archi-
8 tecture, archaeology, construction, building technology and
9 skills, landscape architecture, preservation, building and con-
10 struction, engineering, urban and community design and re-
11 newal, city and regional planning and related professions,
12 skills, trades, and crafts.

13 (c) The Administrator of the General Services Adminis-
14 tration shall make appropriate portions of the building availa-
15 ble to the Committee without charge, and shall insure that
16 proper maintenance and renovation of the building be con-
17 ducted to assure the preservation and operation of the
18 building. Such renovation shall as far as practicable: (1) be
19 commenced immediately; (2) preserve, enhance, and restore
20 the distinctive and historically authentic architectural charac-
21 ter of the site; and (3) retain the availability of the central
22 court of the building, or portions thereof, for appropriate
23 public activities.

Calendar No. 123

96TH CONGRESS
2D SESSION

S. 3116

[Report No. 96-943]

A BILL

To amend the National Historic Preservation Act of
1966, and for other purposes.

SEPTEMBER 16 (legislative day, JUNE 12), 1980

Read twice and ordered to be placed on the calendar